**§ 178.3297 Colorants for polymers.**

* * * * *

(e) * * *

| Substances | Limitations |
|---|---|
| * * * | * * * |
| 4-Chloro-2-[[5-hydroxy-3-methyl-1-(3-sulfophenyl)-1H-pyrazol-4-yl]azo]-5-methylbenzenesulfonic acid,calcium salt (1:1); (C. I. Pigment Yellow 191, CAS Reg. No. 129423–54–7). | For use at levels not to exceed 0.3 percent by weight of the finished polymers. The finished articles are to contact food only under conditions of use B through H as described in Table 2 of § 176.170(c) of this chapter. |
| * * * | * * * |

Dated: July 22, 1995.

**Janice F. Oliver,**

*Deputy Director for Systems and Support, Center for Food Safety and Applied Nutrition.*

[FR Doc. 95–19093 Filed 8–2–95; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[TD 8606]**

**RIN 1545–AR64**

## Definition of Qualified Electric Vehicle, and Recapture Rules for Qualified Electric Vehicles, Qualified Clean-fuel Vehicle Property, and Qualified Clean-fuel Vehicle Refueling Property

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations on the definition of a qualified electric vehicle, the recapture of any credit allowable for a qualified electric vehicle, and the recapture of any deduction allowable for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property. These regulations reflect changes to the law made by the Energy Policy Act of 1992 and affect taxpayers who are owners of qualified electric vehicles, clean-fuel vehicles, and clean-fuel vehicle refueling property.

**DATES:** These regulations are effective August 3, 1995.

For dates of applicability of these regulations, see § 1.30–1(c) and § 1.179A–1(h).

**FOR FURTHER INFORMATION CONTACT:** Joanne E. Johnson at (202) 622–3110 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

*Background*

On October 14, 1994, the IRS published in the **Federal Register** a notice of proposed rulemaking providing the definition of a qualified electric vehicle under section 30(c) and the rules for the recapture of the section 30 credit and section 179A deduction under sections 30(d)(2) and 179A(e)(4), respectively (59 FR 52105).

Written comments responding to the notice were received. No public hearing was requested or held. After consideration of all the comments, this Treasury decision adopts the regulations as proposed.

*Explanation of Provisions*

*In General*

The final regulations define a qualified electric vehicle for purposes of section 30 of the Internal Revenue Code (Code). Several commentators recommended expanding the definition to include a vehicle converted from a used non-electric vehicle. The final regulations do not adopt this recommendation because section 30(c)(1)(B) provides that the original use of the vehicle must commence with the taxpayer. Moreover, conversion costs are deductible under section 179A.

Some commentators suggested including a hybrid-electric vehicle in the definition of a qualified electric vehicle. This issue will be addressed along with other substantive rules in additional proposed regulations under sections 30 and 179A of the Code.

### Effective Date

The final regulations are effective on October 14, 1994. If the recapture date is before the effective date of these regulations, a taxpayer may use any reasonable method to recapture the benefit of any section 30 credit allowable or section 179A deduction allowable consistent with sections 30 and 179A and their legislative history.

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Drafting Information

The principal author of these regulations is Joanne E. Johnson, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805 * * *

Section 1.30–1 also issued under 26 U.S.C. 30(d)(2) * * *

Section 1.179A–1 also issued under 26 U.S.C. 179A(e)(4) * * *

**Par. 2.** Section 1.30–1 is added immediately following the undesignated center heading ''Credits Allowable'' to read as follows:

**§ 1.30–1 Definition of qualified electric vehicle and recapture of credit for qualified electric vehicle.**

(a) *Definition of qualified electric vehicle.* A qualified electric vehicle is a

motor vehicle that meets the requirements of section 30(c). Accordingly, a qualified electric vehicle does not include any motor vehicle that has ever been used (for either personal or business use) as a non-electric vehicle.

(b) *Recapture of credit for qualified electric vehicle*—(1) *In general*—(i) *Addition to tax.* If a recapture event occurs with respect to a taxpayer's qualified electric vehicle, the taxpayer must add the recapture amount to the amount of tax due in the taxable year in which the recapture event occurs. The recapture amount is not treated as income tax imposed on the taxpayer by chapter 1 of the Internal Revenue Code for purposes of computing the alternative minimum tax or determining the amount of any other allowable credits for the taxable year in which the recapture event occurs.

(ii) *Reduction of carryover.* If a recapture event occurs with respect to a taxpayer's qualified electric vehicle, and if a portion of the section 30 credit for the cost of that vehicle was disallowed under section 30(b)(3)(B) and consequently added to the taxpayer's minimum tax credit pursuant to section 53(d)(1)(B)(iii), the taxpayer must reduce its minimum tax credit carryover by an amount equal to the portion of any minimum tax credit carryover attributable to the disallowed section 30 credit, multiplied by the recapture percentage for the taxable year of recapture. Similarly, the taxpayer must reduce any other credit carryover amounts (such as under section 469) by the portion of the carryover attributable to section 30, multiplied by the recapture percentage.

(2) *Recapture event*—(i) *In general.* A recapture event occurs if, within 3 full years from the date a qualified electric vehicle is placed in service, the vehicle ceases to be a qualified electric vehicle. A vehicle ceases to be a qualified electric vehicle if—

(A) The vehicle is modified so that it is no longer primarily powered by electricity;

(B) The vehicle is used in a manner described in section 50(b); or

(C) The taxpayer receiving the credit under section 30 sells or disposes of the vehicle and knows or has reason to know that the vehicle will be used in a manner described in paragraph (b)(2)(i)(A) or (B) of this section.

(ii) *Exception for disposition.* Except as provided in paragraph (b)(2)(i)(C) of this section, a sale or other disposition (including a disposition by reason of an accident or other casualty) of a qualified electric vehicle is not a recapture event.

(3) *Recapture amount.* The recapture amount is equal to the recapture percentage times the decrease in the credits allowed under section 30 for all prior taxable years that would have resulted solely from reducing to zero the cost taken into account under section 30 with respect to such vehicle, including any credits allowed attributable to section 30 (such as under sections 53 and 469).

(4) *Recapture date.* The recapture date is the actual date of the recapture event unless a recapture event described in paragraph (b)(2)(i)(B) of this section occurs, in which case the recapture date is the first day of the recapture year.

(5) *Recapture percentage.* For purposes of this section, the recapture percentage is—

(i) 100, if the recapture date is within the first full year after the date the vehicle is placed in service;

(ii) 66 ⅔, if the recapture date is within the second full year after the date the vehicle is placed in service; or

(iii) 33 ⅓, if the recapture date is within the third full year after the date the vehicle is placed in service.

(6) *Basis adjustment.* As of the first day of the taxable year in which the recapture event occurs, the basis of the qualified electric vehicle is increased by the recapture amount and the carryover reductions taken into account under paragraphs (b)(1)(i) and (ii) of this section, respectively. For a vehicle that is of a character that is subject to an allowance for depreciation, this increase in basis is recoverable over the remaining recovery period for the vehicle beginning as of the first day of the taxable year of recapture.

(7) *Application of section 1245 for sales and other dispositions.* For purposes of section 1245, the amount of the credit allowable under section 30(a) with respect to any qualified electric vehicle that is (or has been) of a character subject to an allowance for depreciation is treated as a deduction allowed for depreciation under section 167. Therefore, upon a sale or other disposition of a depreciable qualified electric vehicle, section 1245 will apply to any gain recognized to the extent the basis of the depreciable vehicle was reduced under section 30(d)(1) net of any basis increase described in paragraph (b)(6) of this section.

(8) *Examples.* The following examples illustrate the provisions of this section:

*Example 1.* A, a calendar-year taxpayer, purchases and places in service for personal use on January 1, 1995, a qualified electric vehicle costing $25,000. On A's 1995 federal income tax return, A claims a credit of $2,500. On January 2, 1996, A sells the vehicle to an unrelated third party who subsequently converts the vehicle into a non-electric vehicle on October 15, 1996. There is no recapture upon the sale of the vehicle by A provided A did not know or have reason to know that the purchaser intended to convert the vehicle to non-electric use.

*Example 2.* B, a calendar-year taxpayer, purchases and places in service for personal use on October 11, 1994, a qualified electric vehicle costing $20,000. On B's 1994 federal income tax return, B claims a credit of $2,000, which reduces B's tax by $2,000. The basis of the vehicle is reduced to $18,000 ($20,000 − $2,000). On March 8, 1996, B sells the vehicle to a tax-exempt entity. Because B knowingly sold the vehicle to a tax-exempt entity described in section 50(b) in the second full year from the date the vehicle was placed in service, B must recapture $1,333 ($2,000×66 ⅔ percent). This recapture amount increases B's tax by $1,333 on B's 1996 federal income tax return and is added to the basis of the vehicle as of January 1, 1996, the beginning of the taxable year in which the recapture event occurred.

*Example 3.* X, a calendar-year taxpayer, purchases and places in service for business use on January 1, 1994, a qualified electric vehicle costing $30,000. On X's 1994 federal income tax return, X claims a credit of $3,000, which reduces X's tax by $3,000. The basis of the vehicle is reduced to $27,000 ($30,000 − $3,000) prior to any adjustments for depreciation. On March 8, 1995, X converts the qualified electric vehicle into a gasoline-propelled vehicle. Because X modified the vehicle so that it is no longer primarily powered by electricity in the second full year from the date the vehicle was placed in service, X must recapture $2,000 ($3,000 × 66⅔ percent). This recapture amount increases X's tax by $2,000 on X's 1995 federal income tax return. The recapture amount of $2,000 is added to the basis of the vehicle as of January 1, 1995, the beginning of the taxable year of recapture, and to the extent the property remains depreciable, the adjusted basis is recoverable over the remaining recovery period.

*Example 4.* The facts are the same as in *Example 3.* In 1996, X sells the vehicle for $31,000, recognizing a gain from this sale. Under paragraph (b)(7) of this section, section 1245 will apply to any gain recognized on the sale of a depreciable vehicle to the extent the basis of the vehicle was reduced by the section 30 credit net of any basis increase from recapture of the section 30 credit. Accordingly, the gain from the sale of the vehicle is subject to section 1245 to the extent of the depreciation allowance for the vehicle plus the credit allowed under section 30 ($3,000), less the previous recapture amount ($2,000). Any remaining amount of gain may be subject to other applicable provisions of the Internal Revenue Code.

(c) *Effective date.* This section is effective on October 14, 1994. If the recapture date is before the effective date of this section, a taxpayer may use any reasonable method to recapture the benefit of any credit allowable under section 30(a) consistent with section 30 and its legislative history. For this

purpose, the recapture date is defined in paragraph (b)(4) of this section.

**Par. 3.** Section 1.179A–1 is added to read as follows:

**§ 1.179A–1 Recapture of deduction for qualified clean-fuel vehicle property and qualified clean-fuel vehicle refueling property.**

(a) *In general.* If a recapture event occurs with respect to a taxpayer's qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property, the taxpayer must include the recapture amount in taxable income for the taxable year in which the recapture event occurs.

(b) *Recapture event*—(1) *Qualified clean-fuel vehicle property*—(i) *In general.* A recapture event occurs if, within 3 full years from the date a vehicle of which qualified clean-fuel vehicle property is a part is placed in service, the property ceases to be qualified clean-fuel vehicle property. Property ceases to be qualified clean-fuel vehicle property if—

(A) The vehicle is modified by the taxpayer so that it may no longer be propelled by a clean-burning fuel;

(B) The vehicle is used by the taxpayer in a manner described in section 50(b);

(C) The vehicle otherwise ceases to qualify as property defined in section 179A(c); or

(D) The taxpayer receiving the deduction under section 179A sells or disposes of the vehicle and knows or has reason to know that the vehicle will be used in a manner described in paragraph (b)(1)(i) (A), (B), or (C) of this section.

(ii) *Exception for disposition.* Except as provided in paragraph (b)(1)(i)(D) of this section, a sale or other disposition (including a disposition by reason of an accident or other casualty) of qualified clean-fuel vehicle property is not a recapture event.

(2) *Qualified clean-fuel vehicle refueling property*—(i) *In general.* A recapture event occurs if, at any time before the end of its recovery period, the property ceases to be qualified clean-fuel vehicle refueling property. Property ceases to be qualified clean-fuel vehicle refueling property if—

(A) The property no longer qualifies as property described in section 179A(d);

(B) The property is no longer used predominantly in a trade or business (property will be treated as no longer used predominantly in a trade or business if 50 percent or more of the use of the property in a taxable year is for use other than in a trade or business);

(C) The property is used by the taxpayer in a manner described in section 50(b); or

(D) The taxpayer receiving the deduction under section 179A sells or disposes of the property and knows or has reason to know that the property will be used in a manner described in paragraph (b)(2)(i) (A), (B), or (C) of this section.

(ii) *Exception for disposition.* Except as provided in paragraph (b)(2)(i)(D) of this section, a sale or other disposition (including a disposition by reason of an accident or other casualty) of qualified clean-fuel vehicle refueling property is not a recapture event.

(c) *Recapture date*—(1) *Qualified clean-fuel vehicle property.* The recapture date is the actual date of the recapture event unless an event described in paragraph (b)(1)(i)(B) of this section occurs, in which case the recapture date is the first day of the recapture year.

(2) *Qualified clean-fuel vehicle refueling property.* The recapture date is the actual date of the recapture event unless the recapture occurs as a result of an event described in paragraph (b)(2)(i) (B) or (C) of this section, in which case the recapture date is the first day of the recapture year.

(d) *Recapture amount*—(1) *Qualified clean-fuel vehicle property.* The recapture amount is equal to the benefit of the section 179A deduction allowable multiplied by the recapture percentage. The recapture percentage is—

(i) 100, if the recapture date is within the first full year after the date the vehicle is placed in service;

(ii) 66⅔, if the recapture date is within the second full year after the date the vehicle is placed in service; or

(iii) 33⅓, if the recapture date is within the third full year after the date the vehicle is placed in service.

(2) *Qualified clean-fuel vehicle refueling property.* The recapture amount is equal to the benefit of the section 179A deduction allowable multiplied by the following fraction. The numerator of the fraction equals the total recovery period for the property minus the number of recovery years prior to, but not including, the recapture year. The denominator of the fraction equals the total recovery period.

(e) *Basis adjustment.* As of the first day of the taxable year in which the recapture event occurs, the basis of the vehicle of which qualified clean-fuel vehicle property is a part or the basis of qualified clean-fuel vehicle refueling property is increased by the recapture amount. For a vehicle or refueling property that is of a character that is subject to an allowance for depreciation, this increase in basis is recoverable over its remaining recovery period beginning as of the first day of the taxable year in which the recapture event occurs.

(f) *Application of section 1245 for sales and other dispositions.* For purposes of section 1245, the amount of the deduction allowable under section 179A(a) with respect to any property that is (or has been) of a character subject to an allowance for depreciation is treated as a deduction allowed for depreciation under section 167. Therefore, upon a sale or other disposition of depreciable qualified clean-fuel vehicle refueling property or a depreciable vehicle of which qualified clean-fuel vehicle property is a part, section 1245 will apply to any gain recognized to the extent the basis of the depreciable property or vehicle was reduced under section 179A(e)(6) net of any basis increase described in paragraph (e) of this section.

(g) *Examples.* The following examples illustrate the provisions of this section:

*Example 1.* A, a calendar-year taxpayer, purchases and places in service for personal use on January 1, 1995, a clean-fuel vehicle, a portion of which is qualified clean-fuel vehicle property, costing $25,000. The qualified clean-fuel vehicle property costs $11,000. On A's 1995 federal income tax return, A claims a section 179A deduction of $2,000. On January 2, 1996, A sells the vehicle to an unrelated third party who subsequently converts the vehicle into a gasoline-propelled vehicle on October 15, 1996. There is no recapture upon the sale of the vehicle by A provided A did not know or have reason to know that the purchaser intended to convert the vehicle to a gasoline-propelled vehicle.

*Example 2.* B, a calendar-year taxpayer, purchases and places in service for personal use on October 11, 1994, a clean-fuel vehicle costing $20,000, a portion of which is qualified clean-fuel vehicle property. The qualified clean-fuel vehicle property costs $10,000. On B's 1994 federal income tax return, B claims a deduction of $2,000, which reduces B's gross income by $2,000. The basis of the vehicle is reduced to $18,000 ($20,000 − $2,000). On January 31, 1996, B sells the vehicle to a tax-exempt entity. Because B knowingly sold the vehicle to a tax-exempt entity described in section 50(b) in the second full year from the date the vehicle was placed in service, B must recapture $1,333 ($2,000 × 66⅔ percent). This recapture amount increases B's gross income by $1,333 on B's 1996 federal income tax return and is added to the basis of the motor vehicle as of January 1, 1996, the beginning of the taxable year of recapture.

*Example 3.* X, a calendar-year taxpayer, purchases and places in service for its business use on January 1, 1994, qualified clean-fuel vehicle refueling property costing $400,000. Assume this property has a 5-year recovery period. On X's 1994 federal income tax return, X claims a deduction of $100,000, which reduces X's gross income by $100,000.

The basis of the property is reduced to $300,000 ($400,000 − $100,000) prior to any adjustments for depreciation. In 1996, more than 50 percent of the use of the property is other than in X's trade or business.

Because the property is no longer used predominantly in X's business, X must recapture three-fifths of the section 179A deduction or $60,000 ($100,000×(5–2)/5 = $60,000) and include that amount in gross income on its 1996 federal income tax return. The recapture amount of $60,000 is added to the basis of the property as of January 1, 1996, the beginning of the taxable year of recapture, and to the extent the property remains depreciable, the adjusted basis is recoverable over the remaining recovery period.

*Example 4.* X, a calendar-year taxpayer, purchases and places in service for business use on January 1, 1994, qualified clean-fuel vehicle refueling property costing $350,000. Assume this property has a 5-year recovery period. On X's 1994 federal income tax return, X claims a deduction of $100,000, which reduces X's gross income by $100,000. The basis of the property is reduced to $250,000 ($350,000 − $100,000) prior to any adjustments for depreciation. In 1995, X converts the property to store and dispense gasoline. Because the property is no longer used as qualified clean-fuel vehicle refueling property in 1995, X must recapture four-fifths of the section 179A deduction or $80,000 ($100,000×(5–1)/5 = $80,000) and include that amount in gross income on its 1995 federal income tax return. The recapture amount of $80,000 is added to the basis of the property as of January 1, 1995, the beginning of the taxable year of recapture, and to the extent the property remains depreciable, the adjusted basis is recoverable over the remaining recovery period.

*Example 5.* The facts are the same as in *Example 4.* In 1996, X sells the refueling property for $351,000, recognizing a gain from this sale. Under paragraph (f) of this section, section 1245 will apply to any gain recognized on the sale of depreciable property to the extent the basis of the property was reduced by the section 179A deduction net of any basis increase from recapture of the section 179A deduction. Accordingly, the gain from the sale of the property is subject to section 1245 to the extent of the depreciation allowance for the property plus the deduction allowed under section 179A ($100,000), less the previous recapture amount ($80,000). Any remaining amount of gain may be subject to other applicable provisions of the Internal Revenue Code.

(h) *Effective date.* This section is effective on October 14, 1994. If the recapture date is before the effective date of this section, a taxpayer may use any reasonable method to recapture the benefit of any deduction allowable under section 179A(a) consistent with section 179A and its legislative history. For this purpose, the recapture date is defined in paragraph (c) of this section.

**Margaret Milner Richardson,**

*Commissioner of Internal Revenue.*

Approved: June 21, 1995.

**Leslie Samuels,**

*Assistant Secretary of the Treasury.*

[FR Doc. 95–19028 Filed 8–2–95; 8:45 am]

BILLING CODE 4830–01–U

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## 26 CFR Part 301

**[TD 8605]**

**RIN 1545–AE30**

## Presumptions Where Owner of Large Amount of Cash is not Identified

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final regulations regarding the presumptions that arise where the owner of a large amount of cash or its equivalent is not identified. The final regulations reflect changes to the law made by the Tax Equity and Fiscal Responsibility Act of 1982 and the Technical and Miscellaneous Revenue Act of 1988, and incorporate the rules of current § 301.6867–1T, relating to cash, cash equivalents, specific cash equivalents and the value of cash equivalents. In addition, several new items have been added to the list of specific cash equivalents. The final regulations affect individuals who are found in possession of a large amount of cash or its equivalent and the true owners of that cash or its equivalent.

**EFFECTIVE DATE:** August 3, 1995.

**FOR FURTHER INFORMATION CONTACT:** Jerome D. Sekula, (202) 622–3640 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains final regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 6867 of the Internal Revenue Code of 1986 (Code). The regulations reflect the enactment of section 6867 by section 330(a) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), and the amendment made by section 1001(a)(1) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647).

The IRS published a notice of proposed rulemaking in the **Federal Register** on September 29, 1994, (59 FR 49613) providing proposed rules under section 6867 of the Code. No written comments were received. No public hearing was requested or held. In most respects, the final regulations are identical to the proposed regulations. The final regulations, however, do not contain those provisions of the proposed regulations that had permitted a possessor of cash, solely in that person's capacity as possessor of cash, to bring a suit for refund in the district court after the deficiency had been collected.

### Explanation of Provisions

Section 330(a) of the Tax Equity and Fiscal Responsibility Act of 1982 amended the Code by adding section 6867, designed to be used in making jeopardy or termination assessments, as appropriate, when there is no known owner of large amounts of cash. Section 6867 provides that if an individual in physical possession of cash in excess of $10,000 does not claim the cash as belonging to that individual or as belonging to another person whose identity is readily ascertainable and who acknowledges ownership of the cash to the IRS, it is presumed that the cash represents gross income of a single individual for the taxable year in which the possession occurs and that the collection of tax will be jeopardized by delay. Section 6867, as originally enacted, made the entire amount of the cash subject to a 50 percent tax rate. Section 1001(a)(1) of the Technical and Miscellaneous Revenue Act of 1988 amended section 6867, effective for taxable years beginning after December 31, 1986, to provide that the tax rate is to be the highest rate of tax for an individual specified in section 1.

Under section 6867, the possessor of cash is treated (solely with respect to the cash) as the taxpayer for the purposes of chapters 63 and 64 of the Code, relating to assessment and collection, and for the purposes of section 7429(a)(1), entitling that individual to a written statement of information concerning the assessment provided for by that section. Because section 6867 does not treat the possessor as the taxpayer for the purposes of sections 7429(a)(2) and 7429(b), relating to administrative and judicial review of termination and jeopardy assessments, the proposed regulations do not permit the possessor of cash to maintain an action under section 7429 for such review. In addition, because section 7422, relating to civil actions for refund, is in chapter 76B and other provisions dealing with refunds are contained in chapter 65 and not chapters 63 or 64 of the Code, a possessor of cash, solely in that person's capacity as possessor of cash, may not institute a suit for refund